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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,471	02/13/2004	Bradford G. Baruh	033151-026	5526
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EXAMINER DUNWOODY, AARON M				
ART UNIT 3679		PAPER NUMBER		
NOTIFICATION DATE 08/24/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/779,471

Applicant(s)

BARUH, BRADFORD G.

Examiner

AARON DUNWOODY

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 11 and 23-36 is/are pending in the application.
- 4a) Of the above claim(s) 33-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-6, 11, 23-32 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Newly submitted claims 33-35 are directed to an invention that is distinct from the elected invention.

Since applicant has received an action on the merits for the elected invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 33-35 are withdrawn from consideration as being directed to a non-elected invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 11, 23, 29, 30 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 01-182694, Ezaki et al.

In regards to claim 1, Ezaki et al disclose a pipe coupling comprising:
an elongated housing (1) having a first end and a second end, the housing defining an elongated bore therein;

a stop located (101) on an inner diameter of the housing, the stop located between the first end and the second ends of the housing, wherein a distance from the stop to one of the first and second ends is at least two times a distance from the stop to the other of the first and second end of the housing;

a first cylindrical (102) bore extending from the first end to the stop; and
a second cylindrical bore (103) extending from the second end to the stop,
wherein an angle between the first cylindrical bore and the second cylindrical bore is
about 15 degrees to about 165 degrees, and wherein each of the cylindrical bores are
configured to allow a pipe end (having any convenient shape, size or function) to
advance into the pipe coupling until reaching the stop.

In regards to claim 11, Ezaki et al disclose a pipe coupling consisting of :
an elongated housing (1) having a first end and a second end, the housing
defining an elongated bore therein;

a stop (101) located on an inner diameter of the housing, the stop located
between the first end and the second ends of the housing, wherein a distance from the
stop to one of the first and second ends is at least two times a distance from the stop to
the other of the first and second end of the housing;

a first cylindrical bore (102) extending from the first end to the stop; and
a second cylindrical bore (103) extending from the second end to the stop,
wherein the angle between the first cylindrical bore and the second cylindrical bore is
about 15 degrees to about 165 degrees, and wherein each of the cylindrical bores are
configured to allow a pipe end (having any convenient shape, size or function) to
advance into the pipe coupling until reaching the stop.

In regards to claim 23, Ezaki et al disclose a pipe coupling comprising:
an elongated housing (1) having a first end and a second end, the housing
defining an elongated bore therein;

a single stop (101) located on an inner diameter of the housing, the stop located between the first end and the second ends of the housing, wherein a distance from the stop to one of the first and second ends is at least two times a distance from the stop to the other of the first and second end of the housing;

a first cylindrical bore (102) extending from the first end to the stop; and

a second cylindrical bore (103) extending from the second end to the stop, wherein an angle between the first cylindrical bore and the second cylindrical bore is about 15 degrees to about 165 degrees.

In regards to claim 29, Ezaki et al disclose the stop is a single stop located on the inner diameter of the housing.

In regards to claim 30, Ezaki et al disclose the stop is a single stop located on the inner diameter of the housing.

In regards to claim 36, Ezaki et al disclose each of the cylindrical bores are configured to allow a pipe end (having any convenient shape, size or function) to advance into the pipe coupling until reaching the stop.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

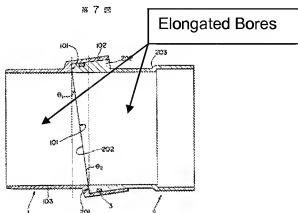
Claims 2-6, 24-28, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ezaki et al in view of US patent 3995888, McIlroy.

In regards to claims 2-6, 24-28, 31, and 32, Ezaki et al discloses the claimed invention except for the angle between the first cylindrical bore and the second cylindrical bore being about 45, 60, 90, 120, 135 degrees. McIlroy teaches angles (acute and obtuse) between a first cylindrical bore and a second cylindrical bore (col. 3, lines 4-7). Angles (acute and obtuse) between a first cylindrical bore and a second cylindrical bore are known in Ezaki et al and McIlroy, as both Ezaki et al and McIlroy are concerned with changing the direction of fluid flow. The only difference between Ezaki et al and McIlroy is the modification of the angle between first cylindrical bore and the second cylindrical bore to about 45, 60, 90, 120, 135 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an angle between the first cylindrical bore and the second cylindrical bore of about 45, 60, 90, 120, 135 degrees, since a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966); and the only difference between Ezaki et al and McIlroy is the modification of the angle between first cylindrical bore and the second cylindrical bore to about 45, 60, 90, 120, 135 degrees, which would be a consideration of one having ordinary skill in the art, as both Ezaki et al and McIlroy are concerned with changing the direction of fluid flow.

Response to Arguments

Applicant's arguments filed 6/18/10 have been fully considered but they are not persuasive.

Applicant argues that Ezaki et al do not disclose an elongated housing or elongated bore there in. The Examiner disagrees. In Figure 7 below, Ezaki et al clearly illustrates an elongated housing (1, 2) with elongated bores.



In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the width and length not being equal) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues that Ezaki et al do not teach or disclose that each of the cylindrical bores are configured to allow a pipe end to advance into the pipe coupling until reaching the stop. The Examiner disagrees. It has been held that the recitation that an element is "adapted to [configured to]" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any

patentable sense. *In re Hutchison*, 69 USPQ 138. The Ezaki et al invention is fully capable of allowing a pipe end to advance into the pipe coupling until reaching the stop.

Further, it should be noted that the pipe end is not positively claimed by Applicant.

In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, angles (acute and obtuse) between a first cylindrical bore and a second cylindrical bore are known in Ezaki et al and McIlroy, as both Ezaki et al and McIlroy are concerned with changing the direction of fluid flow. The only difference between Ezaki et al and McIlroy is the modification of the angle between first cylindrical bore and the second cylindrical bore to about 45, 60, 90, 120, 135 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an angle between the first cylindrical bore and the second cylindrical bore of about 45, 60, 90, 120, 135 degrees, since a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966); and the only difference between Ezaki et al and McIlroy is the

modification of the angle between first cylindrical bore and the second cylindrical bore to about 45, 60, 90, 120, 135 degrees, which would be a consideration of one having ordinary skill in the art, as both Ezaki et al and McIlroy are concerned with changing the direction of fluid flow.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON DUNWOODY whose telephone number is (571)272-7080. The examiner can normally be reached on 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/AARON DUNWOODY/
Primary Examiner, Art Unit 3679

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